

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TIFFANY LYNN DUNN, JAMES
PATRICK DUNN, and DANIEL WAYNE
DUNN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ELAINE C DUNN,

Respondent-Appellant.

UNPUBLISHED

March 27, 2007

No. 273244

St. Clair Circuit Court

Family Division

LC No. 05-000638-NA

Before: Zahra, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). This Court reviews the trial court's findings of fact under the clearly erroneous standard. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *Id.* Regard is given to the special ability of the trial court to judge the credibility of the witnesses who appeared before it. *Id.*

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. *Id.* The conditions that led to adjudication were respondent's inability to adequately supervise, protect, control the behavior of, and promote the development of the three young children due to her mild mental retardation. Throughout these proceedings, respondent was pleasant and cooperative, steadily employed, able to navigate the community, owned a vehicle, amenable to services, and properly fed, clothed, and housed the children. However, provision of proper care and custody also entails ensuring a child's safety and fostering a child's proper development through stimulation and interaction, and the evidence

in this case showed that respondent did not provide the necessary minimum support in this regard.

Evidence garnered from various service providers also established that respondent lacked the capacity to properly supervise or control the behavior of the children unless they were constrained in car seats, high chairs, or strollers, or gated in a certain area, and the service providers testified to specific examples of the children being placed in dangerous situations, such as running in a parking lot and being left alone in a vehicle with the doors open near a street. The children were likely to suffer physical, developmental, emotional, and mental harm if returned to respondent's care.

Respondent did not improve her ability to properly supervise and control the children, or increase their stimulation and interaction despite participation in extensive services, including hands-on parent mentoring, counseling, and parenting classes. She failed to follow through on programs such as Early On and Head Start, which were designed to compensate for deficits in the home. Given her mental limitations and her failure to benefit in the past, the trial court did not clearly err in finding that there was no reasonable likelihood that she would become able to properly and safely parent the children within a reasonable time.

Further, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children were bonded to respondent, but the evidence was clear that respondent lacked the capacity to safely and properly parent them. No evidence was presented showing that termination of respondent's parental rights would cause the children to suffer. Rather the evidence as a whole showed that termination would be in their best interests.

Affirmed.

/s/ Brian K. Zahra
/s/ Richard A. Bandstra
/s/ Donald S. Owens